

## ENVIRONMENTAL PROTECTION COMMISSION[567]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 61, "Water Quality Standards," Iowa Administrative Code.

The amendment being proposed will:

1. Revise and list approximately 33 river and stream segments as Class A2 Secondary Contact Recreational Use designated waters in the rule-referenced document "Surface Water Classification."
2. Revise and list approximately 83 river and stream segments as Class A2 Secondary Contact Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."
3. Revise and list four stream segments as Class A2 Secondary Contact Recreational Use and Class B(WW-3) Warm Water-Type 3 designated waters in the rule-referenced document "Surface Water Classification."
4. Revise and list six river and stream segments as Class A3 Children's Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."
5. Revise and list 11 river and stream segments as Class A3 Children's Recreational Use designated waters in the rule-referenced document "Surface Water Classification."
6. Revise and list one stream segment as Class HH Human Health designated water in the rule-referenced document "Surface Water Classification."

Recent rule making and 2006 legislative action have brought the Department's water quality rules closer to compliance with federal Clean Water Act requirements and U.S. Environmental Protection Agency (EPA) regulations, establishing new levels of protection for water quality. As an outcome of these efforts, all 26,000 miles of Iowa's perennial (flowing year-round) streams are initially protected at the highest levels for recreation and warm water aquatic life uses. These actions provide initial protection for many miles of perennial streams that were previously not designated for aquatic life or recreational uses.

Under the rules adopted in 2006, it is presumed that all perennial streams and rivers are attaining the highest level of recreation and aquatic life uses and should be protected for activities such as fishing and swimming. This concept of assigning all perennial streams the highest use designation, unless assessments show that the stream does not deserve that level of protection, is referred to as the "rebuttable presumption." Included in the federal regulations are the provisions that allow for scientific analysis of these "presumed" recreational and aquatic life uses. An integral part of implementing the rules adopted in 2006 is verifying that a stream is capable of supporting the presumed uses.

The concept of Use Assessment and Use Attainability Analysis (UA/UAA) is being applied by the Department as a step-by-step process to gather site-specific field data on stream features and uses. The Department then assesses available information to determine if the "presumed" recreational and aquatic life uses are appropriate.

The Department elected to perform a UA/UAA on any newly designated stream that receives a continuous discharge from a facility with a National Pollutant Discharge Elimination System (NPDES) permit. Prior to issuing an NPDES permit for an affected facility, the Department will complete a UA/UAA for the receiving stream or stream network. Below is a list of the overall 138 proposed stream

segments as a result of field assessments conducted from 2005 to 2008. (Duplicate listings represent separate segments along the overall reach of the stream.)

The proposed stream segment revisions are:

**Class A2 Stream Segments**

1. Ballard Creek (Story Co.)
2. Big Bear Creek (Poweshiek/Iowa Co.)
3. Black Hawk Creek (Black Hawk/Grundy Co.)
4. Deep Creek (Plymouth Co.)
5. Deep Creek (Plymouth Co.)
6. East Nodaway River
7. Elk Run (Black Hawk Co.)
8. Flint Creek (Des Moines Co.)
9. Granger Creek (Dubuque Co.)
10. Hartgrave Creek (Franklin/Butler Co.)
11. Indian Creek (Sac Co.)
12. Little Bear Creek (Poweshiek Co.)
13. Little Cedar River (Mitchell Co.)
14. Little Maquoketa River (Dubuque Co.)
15. Mosquito Creek (Pottawattamie/Harrison/Shelby Co.)
16. Mud Creek (Benton Co.)
17. Mud Creek (Polk Co.)
18. Otter Creek (Franklin Co.)
19. Otter Creek (Franklin Co.)
20. Plum Creek (Delaware Co.)
21. Shoal Creek (Appanoose Co.)
22. South Timber Creek (Marshall Co.)
23. Spring Creek (Franklin Co.)
24. Spring Creek (Franklin Co.)
25. Squaw Creek (Franklin Co.)
26. Squaw Creek (Linn Co.)
27. Stony Creek (Clay Co.)
28. Thompson River
29. Timber Creek (Marshall Co.)
30. Unnamed Creek (City of Carroll)
31. Waterman Creek (O'Brien Co.)
32. Willow Creek (Cerro Gordo Co.)
33. Willow Creek (Cerro Gordo Co.)

**Class A2, B(WW-2) Stream Segments**

1. Apple Creek (Linn Co.)
2. Bear Creek (Wapello Co.)
3. Blue Creek (Benton/Linn Co.)
4. Brewers Creek (Hamilton Co.)
5. Brush Creek (Marshall Co.)
6. Bulger Creek (Dallas Co.)
7. Burr Oak Creek (Jefferson Co.)
8. Clear Creek (Cerro Gordo Co.)
9. Crooked Creek (Cedar Co.)
10. Drainage Ditch #13 (Hancock Co.)
11. Drainage Ditch #4 (Wright Co.)
12. Drainage Ditch #81 (Worth Co.)

13. Dry Creek (Benton/Linn Co.)
14. East Branch Blue Creek (Linn Co.)
15. Fourmile Creek (Kossuth Co.)
16. Fourmile Creek (Union Co.)
17. Fudge Creek (Wapello Co.)
18. Hawkeye Creek (Des Moines Co.)
19. Hawkeye-Dolbee Diversion Channel (Des Moines Co.)
20. Honey Creek (Delaware Co.)
21. Indian Creek (Audubon/Shelby/Cass Co.)
22. Indian Creek (Sioux Co.)
23. Indian Creek (Tama Co.)
24. Little Flint Creek (Des Moines Co.)
25. Lutes Creek (Marshall Co.)
26. Marvel Creek (Adair Co.)
27. Mitchell Creek (Jefferson Co.)
28. Mosquito Creek (Shelby Co.)
29. Murray Creek (O'Brien Co.)
30. Neola Creek (Pottawattamie Co.)
31. North Timber Creek (Marshall Co.)
32. Orange City Slough (Sioux Co.)
33. Platte River
34. Plum Creek (Delaware Co.)
35. Sewer Creek (Jasper Co.)
36. Sixmile Creek (Sioux Co.)
37. Snipe Creek (Marshall Co.)
38. Sugar Creek (Keokuk Co.)
39. Twelvemile Creek (Union Co.)
40. Unnamed Creek (#1) (City of Atkins)
41. Unnamed Creek (#1) (City of Brighton)
42. Unnamed Creek (#1) (City of Elkhart)
43. Unnamed Creek (#1) (HWH Company)
44. Unnamed Creek (#1) (Lakewood Estates MHP)
45. Unnamed Creek (#1) (Little Sioux Corn Processing)
46. Unnamed Creek (#1) (Missouri Valley Energy – Exira)
47. Unnamed Creek (#1) (Missouri Valley Energy – Exira)
48. Unnamed Creek (#1) (Siouxland Energy)
49. Unnamed Creek (#2) (City of Atkins)
50. Unnamed Creek (#2) (City of Brighton)
51. Unnamed Creek (#2) (City of Cincinnati)
52. Unnamed Creek (#2) (City of Elkhart)
53. Unnamed Creek (#2) (City of Hedrick)
54. Unnamed Creek (#2) (City of Middletown)
55. Unnamed Creek (#2) (City of Milo)
56. Unnamed Creek (#2) (Oak Hills Subdivision)
57. Unnamed Creek (aka Johnson's Creek)
58. Unnamed Creek (Bulk Petroleum)
59. Unnamed Creek (Chantland-PVS Company)
60. Unnamed Creek (City of Creston WWTP)
61. Unnamed Creek (City of Earlville)
62. Unnamed Creek (City of Hedrick)
63. Unnamed Creek (City of Hills)
64. Unnamed Creek (City of Huxley)

65. Unnamed Creek (City of Malvern)
66. Unnamed Creek (City of Remsen)
67. Unnamed Creek (City of Sioux Center)
68. Unnamed Creek (City of Sully)
69. Unnamed Creek (Corn Belt Power) (aka Bull Ditch)
70. Unnamed Creek (DNR Viking Lake)
71. Unnamed Creek (Echo Valley MHP #2)
72. Unnamed Creek (Ecosystems Inc.)
73. Unnamed Creek (Heartland Lysine)
74. Unnamed Creek (IAMU)
75. Unnamed Creek (John Deere Engineering Center)
76. Unnamed Creek (McCreary Community Building)
77. Unnamed Creek (Siouxpreme Packing)
78. Unnamed Creek (Stacyville Co-op Creamery)
79. Unnamed Creek (Tri-Center Community School)
80. Unnamed Creek (Wells Dairy Mill Plant)
81. Waugh Branch (Keokuk Co.)
82. West Branch Blue Creek (Benton Co.)
83. West Branch Floyd River

**Class A2, B(WW-3) Stream Segments**

1. Barlene Creek (Des Moines Co.)
2. Little Walnut Creek (Appanoose Co.)
3. Unnamed Creek (#1) (City of Milo)
4. Unnamed Creek (Iowa Army Ammunition Plant)

**Class A3, B(WW-2) Stream Segments**

1. Brewers Creek (Hamilton Co.)
2. Crow Creek (Jefferson Co.)
3. Dry Creek (Linn Co.)
4. Unnamed Creek (John Deere Davenport Works)
5. Unnamed Creek (Magellan Pipeline – Johnson Co.)
6. Unnamed Creek (Wells Dairy – North Plant)

**Class A3 Stream Segments**

1. Big Bear Creek (Poweshiek/Iowa Co.)
2. Black Hawk Creek (Black Hawk/Grundy Co.)
3. Elk Run (Black Hawk Co.)
4. Indian Creek (Linn Co.)
5. Mosquito Creek (Pottawattamie Co.)
6. Otter Creek (Franklin Co.)
7. Plum Creek (Delaware Co.)
8. Spring Creek (Franklin Co.)
9. Squaw Creek (Franklin Co.)
10. Willow Creek (Cerro Gordo Co.)
11. Willow Creek (Cerro Gordo Co.)

**Class HH Stream Segments**

1. Milford Creek (Dickinson Co.)

As required by recent legislation, a Fiscal Impact Statement (FIS) has been prepared for this Notice and is available upon request.

Additional information on Iowa's Water Quality Standards, including the FIS and detailed maps of the stream assessments, can be found on the Department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

Any person may submit written suggestions or comments on the proposed amendment through April 30, 2009. Such written material should be submitted to Adam Schnieders, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or E-mail [adam.schnieders@dnr.iowa.gov](mailto:adam.schnieders@dnr.iowa.gov). Persons who have questions may contact Adam Schnieders at (515)281-7409.

Persons are invited to present oral or written comments at a series of public hearings, which will be held throughout the state as follows:

April 7, 2009	1 p.m.	Wallace State Office Building 4th Floor Conference Rooms 502 E. 9th Street Des Moines
April 9, 2009	10 a.m.	Cherokee Community Center 530 W. Bluff Street Cherokee
April 9, 2009	6 p.m.	Atlantic Municipal Utilities Conference Room 15 W. 3rd Street Atlantic
April 14, 2009	10 a.m.	Falcon Civic Center 1305 5th Avenue N.E. Independence
April 14, 2009	6 p.m.	Iowa City Public Library 123 Linn Street Iowa City
April 16, 2009	1 p.m.	Clear Lake Community Meeting Room 15 N. 6th Street Clear Lake

Any persons who plan to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

This amendment may have an impact upon small businesses.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendment is proposed.

Amend subrule 61.3(5) as follows:

**61.3(5) *Surface water classification.*** The department hereby incorporates by reference "Surface Water Classification," effective ~~June 11, 2008~~ [effective date of amendment]. This document may be obtained on the department's Web site at <http://www.iowadnr.com/water/standards/index.html>.